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State of California
Franchise Tax Board

September 2007 Franchise Tax Board Public Litigation Roster

All currently active cases and those recently closed are listed on the roster. Activity or changes with respect to a case appear in bold-face type. Any new cases will appear in bold-face type.

A list of new cases that have been added to the roster for the month is also provided, as well as a list of cases that have been closed and will be dropped from the next report.

The Franchise Tax Board posts the Litigation Roster on its Internet site. The Litigation Roster can be found at: <http://www.ftb.ca.gov/law/litrstr/index.html>.

The Litigation Rosters for the last four years may be found on the Internet site.

FRANCHISE AND INCOME TAX
Closed Cases – September 2007

Case Name

Court Number

Blackie, Gerald

Los Angeles Superior Court Docket No. BC362241

FRANCHISE AND INCOME TAX
New Cases – September 2007

Case Name

Court Number

Jurika, William & Michelle, et al

San Francisco Superior Court Docket No. CGC07466507

Rohr, Inc.

San Diego Superior Court Docket No. 37-2007-00070925-CU-CO-CTL

Schenck, William E. & Karren

Sacramento Superior Court Docket No. 07AS04188

**FRANCHISE AND INCOME TAX
MONTHLY REFUND LITIGATION ROSTER**

September 2007

ABBOTT LABORATORIES & Affiliates v. Franchise Tax Board

Los Angeles Superior Court Docket No. BC369808

Taxpayer's Counsel

J. Pat Powers

Baker & McKenzie, LLP

Filed – 04/20/07

FTB's Counsel

Brian Wesley

Issue: Whether Plaintiffs were entitled to a deduction under section 24402 after the statute was found to be unconstitutional.

Years: 1999-2000 Amount \$715,735.00

Status: Demurrer Sustained Without Leave to Amend filed on August 9, 2007.

BAKERSFIELD MALL, LLC v. Franchise Tax Board

San Francisco Superior Court Docket No. No. CGC07462728

Taxpayer's Counsel

Amy L. Silverstein, Edwin Antolin

Silverstein & Pomerantz, LLP

Filed – 04/25/07

FTB's Counsel

Marguerite Stricklin

Issues: 1. Whether the LLC fee imposed on an LLC doing business entirely within California by Rev. Tax. Code §17942 is unconstitutional under the due process, equal protection and commerce clauses of the U.S. Constitution.
2. Whether Rev. Tax. Code §17942 violates Article XIII, section 26 of the California Constitution.
3. Whether Rev. Tax. Code §17942 constitutes an invalid exercise of the states police power and is void.

Years: 2000 through 2004 Amount \$56,537.00

Status: **Plaintiff's Order Overruling Demurrer filed on September 7, 2007.** Case Management Conference and Hearing on Motion scheduled for October 3, 2007.

BAYER CORPORATION v. Franchise Tax Board

Sacramento Superior Court Docket No. 07AS03350

Taxpayer's Counsel

Eric J. Coffill, Carley A. Roberts

Morrison & Foerster, LLP

Filed – 07/23/07

FTB's Counsel

Michael J. Cornez

Issue: Whether the value of Plaintiff's inventory was properly calculated for each of the years for purposes of determining its cost of goods sold.

Years: 1993-1994 Amount \$2,481,551.00

Status: Answer to Complaint filed on August 28, 2007.

BRAR, KALDEEP S. & IMELDA A. & PROFESSIONAL RESOURCE ENTERPRISES, INC. v. Franchise Tax Board

Los Angeles Superior Court Docket No. BC365233

Taxpayer's Counsel

Robert F Klueger, Esq.

Boldra, Klueger & Stein, LLP

Filed – 01/24/07

FTB's Counsel

Mark P. Richelson

Issue: 1. Whether FTB properly determined the Los Angeles Revitalization Zone credit carryovers to which Plaintiffs were entitled.

Year: 1999

Amount \$335,885.53

Status: Status Conference scheduled for November 2, 2007.

BRATTON, KERRY M. v. Franchise Tax Board

San Francisco Superior Court Docket No. CGC07461671

Taxpayer's Counsel

Mark T. Schieble

Foley & Lardner, LLP

Filed – 03/23/07

FTB's Counsel

Amy J. Winn

Issue: Whether the penalty for the promotion of an abusive tax shelter provided for in section 19177 was properly assessed to Plaintiff.

Year: 2003

Amount \$3,996,235.94 Penalty

Status: Mandatory Settlement Conference scheduled for January 30, 2008. Trial scheduled for February 19, 2008.

CITY NATIONAL CORPORATION v. Franchise Tax Board

Los Angeles Superior Court Docket No. BC334772

Court of Appeal, 2nd Appellate District No. B189240

California Supreme Court No. S150563

Taxpayer's Counsel

Kenneth R. Chiate, Mary S. Thomas

Quinn, Emanuel, Urquhart, Oliver & Hedges, LLP

Filed – 06/10/05

FTB's Counsel

Donald R. Currier

Sherrill Johnson

Offices of the General Counsel

City National Bank

Issues: 1. Whether Plaintiff improperly engaged in tax shelter transaction involving Regulated Investment Trusts (REITs) and Regulated Investment Companies (RICs) during the subject years.

2. Whether certain subsidiaries were exempt from California taxation as IRC 501(c)(15) entities.
3. Whether Plaintiff has satisfied the requirement of exhausting all administrative remedies in order to maintain a lawsuit.

Years: 1999 through 2003

Amount \$84,676,129.00

Status: Defendant's Answer to First Amended Complaint filed on August 14, 2007. Defendant's Cross-Complaint filed on August 14, 2007. Case Management Conference scheduled for September 14, 2007.

CITY NATIONAL CORPORATION & Subs. v. Franchise Tax Board

Sacramento Superior Court Docket No. 06AS02275

Taxpayer's Counsel

Kenneth R. Chiate

Quinn, Emanuel, Urquhart Oliver & Hedges, LLP

Sherrill Johnson

Offices of the General Counsel

City National Bank

Filed – 06/06/06

FTB's Counsel

Michael J. Cornez

Issue: Whether Plaintiffs improperly engaged in tax shelter transaction involving Real Estate Investment Trusts (REITs).

Year: 2004

Amount \$23,900,000.00

Status: Discovery proceeding.

COLGATE-PALMOLIVE, CO. & SUBSIDIARIES v. Franchise Tax Board

Sacramento Superior Court Docket No. 03AS00707

Taxpayer's Counsel

Eric J. Coffill, Carley A. Roberts

Morrison & Foerster, LLP

Filed - 02/07/03

FTB's Counsel

Steven J. Green

- Issues:
1. Whether the sales factor was properly calculated by excluding proceeds from short-term financial instruments and value added taxes assessed by foreign countries.
 2. Whether the property factor needs to be adjusted to value property at its appreciated value to fairly reflect its activities in California.

Years: 1974 through 1982, 1984 through 1987, 1989 through 1991

Amount \$2,912,696.00

Status: Order to Stay Proceeding signed by Judge Virga on November 29, 2004, until a decision is reached in the *General Motors v. FTB* case.

DELUCCHI, MARIO & KATHLEEN, et al. v. Franchise Tax Board

Sacramento Superior Court Docket No. 06AS02661

Taxpayer's Counsel

Harry Gordon Oliver II

Attorney at Law

Filed – 06/22/06

FTB's Counsel

Michael J. Cornez

Issues: 1. Whether Plaintiffs properly computed income on an installment sale.
2. Whether Plaintiffs may be deemed to have elected out of the installment method.
3. Whether Plaintiffs' gain on the sale of a stock qualified for exemption as Small Business Stock in 1995.

Year: 1995Amount \$954,800.00Status: Plaintiffs' Notice of Appeal filed on August 6, 2007.**DELUXE CORPORATION v. Franchise Tax Board**

San Francisco Superior Court Docket No. CGC07462305

Taxpayer's Counsel

Amy L. Silverstein, Edwin Antolin

Silverstein & Pomerantz

Filed – 04/11/07

FTB's Counsel

David Lew

Issues: 1. Whether the Franchise Tax Board has the authority to review the validity of enterprise zone credit vouchers issued by an enterprise zone.
2. Whether the Franchise Tax Board properly disallowed enterprise zone credits claimed by plaintiff.

Years: 1999 through 2001Amount \$979,741.00

Status: **Mandatory Settlement Conference scheduled for April 4, 2008, Trial scheduled for April 21, 2008.**

DICON FIBEROPTICS, INC. v. Franchise Tax Board

Los Angeles Superior Court Docket No. BC367885

Taxpayer's Counsel

Paul S. Chan and Angela E. Oh

Bird, Marella, Boxer, Wolpert,

Nessim, Drooks & Lincenberg, P.C.

Filed – 03/13/07

FTB's Counsel

Mark Richelson

Issue: Whether Franchise Tax Board properly denied EZ Credits claimed by Plaintiff.

Year: Ending 03/31/07Amount \$1,104,992.00

Status: Court Order filed on August 17, 2007, Defendant's Demurrer is Sustained Without Leave to Amend.

DILTS, WALTER B. JR. AND PHYLLIS A. KAPPELER v. Franchise Tax Board

San Francisco Superior Court Docket No. CGC04436496

Taxpayer's Counsel

R. Todd Luoma

Law Office of Richard Todd Luoma

Filed - 11/19/04

FTB's Counsel

Anne Michelle Burr

Issue: Whether Plaintiffs ceased to be California residents as of December 16, 1994.

Years: 1994 and 1995

Amount \$973,101.00

Status: Notice sent by the Court, Order to Show Cause continued to January 8, 2008.

DUFFIELD, DAVID A. & CHERYL D. v. Franchise Tax Board

San Francisco Superior Court Docket No. CGC07459331

Taxpayer's Counsel

Jeffrey M. Vesely

Kerne H. O. Matsubara, Annie H. Huang

Pillsbury, Winthrop, Shaw, Pittman, LLP

Filed – 01/05/07

FTB's Counsel

David Lew

Issues:

1. Whether Plaintiffs exchange of PeopleSoft Stock for the stock of Nevada Pacific Development Corporation qualified as a tax-free exchange pursuant to Revenue and Taxation Code section 17321.
2. Whether Plaintiffs were subject to the penalty imposed by section 19777.5.
3. Whether the penalty imposed by section 19777.5 meets Due Process requirements.
4. Whether Plaintiffs were entitled to an abatement of interest pursuant to Revenue and Taxation Code section 19104.

Year: 1994

Amount \$11,159,001.25

Status: Discovery proceeding. Mandatory Settlement Conference set for January 11, 2008, Trial set for January 28, 2008.

ELS EDUCATIONAL SERVICES, INC. v. Franchise Tax Board

Sacramento Superior Court Docket No. 07AS0307

Taxpayer's Counsel

Robert R. Rubin

McDonough, Holland & Allen, PC

Filed – 07/05/07

FTB's Counsel

Michael Cornez

Issue: Whether Plaintiff was entitled for California purposes, to elect out of treatment provided by section 338(h)(10) of the Internal Revenue Code.

Year: 08/28/97

Amount \$630,615.97

Status: Defendant's Answer to Complaint filed on August 9, 2007.

FREIDBERG, EDWARD AND TRACI REYNOLDS v. Franchise Tax Board

Sacramento Superior Court Docket No. 07AM01181

Taxpayer's Counsel

Edward Freidberg, Suzanne M. Alves

Freidberg & Parker

Filed – 02/02/07

FTB's Counsel

Amy Winn

Larry Keethe

Issue: Whether Franchise Tax Board was required to credit the amount of a non-final judgment to satisfy Plaintiffs' self-assessed taxes for years subsequent to those involved in the judgment.

Years: 2003 and 2004

Amount \$9,326.32 Penalty

Status: Trial Setting Conference scheduled for November 19, 2007.

GARCIA, W. ROCKE AND GLENDA L. v. Franchise Tax Board

San Francisco Superior Court Docket No. CGC06456659

Taxpayer's Counsel

William J. McLean

A Professional Law Corporation

Filed – 10/02/06

FTB's Counsel

Kristian Whitten

Issue:

1. Whether Plaintiffs timely acquired replacement real property in compliance with the Internal Revenue Code section 1033.
2. Whether a decision by the State Board of Equalization precludes the assessment of penalties pursuant to section 19777.5.
3. Whether the penalty assessed by Section 19777.5 satisfies due process requirements.

Year: 1992

Amount \$616,065.66

Status: **Order Sustaining Demurrers to First Amended Complaint filed on September 20, 2007.**

GENERAL MILLS, INC. & SUBSIDIARIES v. Franchise Tax Board

San Francisco Superior Court Docket No. CGC05-439929

Taxpayer's Counsel

Thomas H. Steele

Andres Vallejo, Jeffrey S. Terraciano

Morrison & Foerster LLP

Filed – 03/29/05

FTB's Counsel

Joyce Hee

Issues:

1. Whether the Plaintiffs' payroll factor was properly computed by excluding foreign employee stock options.
2. Whether the Plaintiffs' sales factor was properly calculated by excluding receipts from commodities transactions and short-term financial instruments.
3. Whether federal RAR adjustments were properly taken into account.

Years: 1992 through 1997

Amount \$3,950,026.00

Status: **Statement of Decision in favor of Defendant filed on September 26, 2007.**

GENERAL MOTORS CORPORATION, et al. v. Franchise Tax Board

Los Angeles Superior Court Docket No. BC269404
Court of Appeal, 2nd Appellate District No. B165665
California Supreme Court No. S127086

Filed - 03/06/02

Taxpayer's Counsel

Charles R. Ajalat
Law Office of Ajalat, Polley & Ayoob

FTB's Counsel

Stephen Lew
Donald Currier

Issues: 1. Whether gross receipts from the disposition of marketable securities were properly excluded from the sales factor.
2. Whether interest income was properly characterized as business income.
3. Whether dividends received with respect to stock representing less than a 50% voting interest were properly classified as business income.
4. Whether the limitation on deductions prescribed by sections 24402 and 24410 resulted in unconstitutional discriminatory taxation.
5. Whether various receipts from intangible assets were properly excluded from the sales factor.
6. Whether research tax credits were properly limited to the entity incurring the expense.
7. Whether a deduction was properly denied with respect to foreign country taxes withheld on dividends.
8. Whether the taxpayer is entitled to an increased deduction with respect to depreciation on assets held by foreign country subsidiaries.
9. Whether the taxes determined to be owing by the Franchise Tax Board were properly computed and assessed.

Years: 1986 through 1988

Amount \$10,692,755.00

Status: **Discovery Proceeding.** Final Status Conference scheduled for September 29, 2008. Trial scheduled for October 1, 2008.

GOLDEN WEST HEALTH PLAN, INC. v. Franchise Tax Board

Los Angeles Superior Court Docket No. BC353849

Filed – 06/15/06

Taxpayer's Counsel

Alan R. Maler
Greenberg Traurig, LLP

FTB's Counsel

Marla Markman

Issue: Whether Plaintiff made a valid S Corporation election for California purposes.

Years: 04/01/03 through 06/01/03

Amount \$669,045.00

Status: **Trial held on September 19, 2007.**

GONZALES, THOMAS J. II v. Franchise Tax Board

San Francisco Superior Court Docket No. CGC06454297

Filed – 07/18/06

Taxpayer's Counsel

Martin A. Schainbaum, Esq.
Martin A. Schainbaum, PLC

FTB's Counsel

Michael J. Cornez

- Issues: 1. Whether the loss claimed with respect to a Son of Boss transaction was allowable.
2. Whether a taxpayer self-reporting under VCI is eligible for interest suspension pursuant to section 19116.
3. Whether the taxpayer is entitled to deduct legal expenses paid in connection with an investment.

Years: 2000 and 2001 Amount \$12,374,510.00

Status: Discovery proceeding. Mandatory Settlement Conference scheduled for February 5, 2008. Trial scheduled for February 19, 2008.

HARGIS, BOB & RUTH v. Franchise Tax Board

San Diego Superior Court Docket No. GIC 876431

Taxpayer's Counsel

Kevin M. Bagley, Robert M. Shaughnessy
Duckor, Stradling, Metzger & Wynne
A Law Corporation

Filed – 12/05/06

FTB's Counsel

Leslie Branman Smith
Diane Spencer Shaw

- Issues: 1. Whether Plaintiffs were residents of California during the years at issue.
2. Whether a penalty for a dishonored check was properly assessed.
3. Whether the penalty provided for in section 19777.5 was properly assessed.

Years: 1999 and 2000 Amount \$915,873.40

Status: Discovery proceeding. Case Management Conference held on June 15, 2007.

HYATT, GILBERT P. v. Franchise Tax Board

Clark County Nevada District Court No. A382999

Nevada Supreme Court No. 47141

Taxpayer's Counsel

Thomas L. Steffen & Mark A. Hutchison
Hutchison & Steffen, H. Bartow Farr III

Filed - 01/06/98

FTB's Counsel

James W. Bradshaw
McDonald, Carano,
Wilson LLP
Las Vegas, Nevada

- Issues: 1. Whether Plaintiff was a resident of California from September 26, 1991 through April 2, 1992.
2. Whether the Franchise Tax Board committed various torts with respect to plaintiff and is subject to a claim for damages.
3. Whether the Nevada courts have or should exercise jurisdiction over the Franchise Tax Board.

Years: 1991 and 1992 Amount \$7,545,492.00 Tax
\$5,659,119.00 Penalty

Status: Nevada Supreme Court
Plaintiff's Petition for Writ of Mandamus to Nevada Supreme Court denied on May 10, 2007.

JURIKA, WILLIAM & MICHELLE, et al. v. Franchise Tax Board

San Francisco Superior Court Docket No.

Taxpayer's Counsel

Arthur V. Pearson

Murphy, Pearson, Bradley & Feeney

Filed – 09/25/07

FTB's Counsel

Joyce Hee

Issues: 1. Whether Plaintiffs' claims for refund were barred by the statute of limitation.
2. Are Plaintiffs entitled to equitable relief from the statute of limitation.

Year: 2000

Amount

\$914,777.00

Status: Plaintiffs' Summons and Complaint served personally on the Franchise Tax Board on September 25, 2007.

(MARKEN, DONALD W. deceased) HARB, Trustee et al. & CLAUDINE H. v. Franchise Tax Board

San Francisco Superior Court Docket No. 302520

Filed - 04/05/99

Court of Appeal, 1st Appellate Dist. No. A091644

California Supreme Court No. S 104529

Court of Appeal, 1st Appellate Dis. No. A109715

Court of Appeal, 1st Appellate District No. A110668 (Attorneys' Fees)

Taxpayer's Counsel

William E. Taggart, Jr.

Taggart & Hawkins

FTB's Counsel

Marguerite Stricklin

Issue: Whether Plaintiffs were residents of California in 1993.

Year: 1993

Amount

\$244,012.00

Status: Petition for Review for A109715 & A110668 filed June 22, 2007.

MERCURY GENERAL CORPORATION v. Franchise Tax Board

San Francisco Superior Court Docket No. No. GCG07462688

Filed – 04/25/07

Taxpayer's Counsel

Roy E. Crawford, Robert J. Waldow

Heller, Ehrman, LLP

FTB's Counsel

Julian Standen

Issues: 1. Whether a portion of Plaintiff's insurance subsidiary management expenses was properly disallowed under Rev. & Tax. Code § 24425.
2. Whether the amnesty penalty under Rev. & Tax. Code § 19777.5 violates the due process clause of the U.S. Constitution, applies only retroactively, or attaches only after a liability becomes due and payable.

Years: 12/31/93 through 12/31/96

Amount

\$7,585,601.28

Status: Mandatory Settlement Conference scheduled for February 27, 2008, and Trial scheduled for March 27, 2008.

MIKE, ANGELINA v. Franchise Tax Board

San Diego Superior Court Docket No. 37-2007-00067324-CU-MC-CTL

Taxpayer's Counsel

Richard M. Freeman, Carole M Ross

Sheppard, Mullin, Richter & Hampton, LLP

Filed – 05/25/07

FTB's Counsel

Leslie Branman Smith

Issue: Whether plaintiff's distribution of gaming income derived from revenue generated on a Native American reservation is exempted from California tax because plaintiff resided on the reservation of another tribe.

Year: 2000Amount \$31,856.00Status: Answer to Complaint filed on July 17, 2007.**MONTGOMERY WARD LLC v. Franchise Tax Board v. Franchise Tax Board**

San Diego Superior Court Docket No. GIC802767

Taxpayer's Counsel

Edwin P. Antolin, Amy Silverstein

Silverstein & Pomerantz, LLP

Filed - 12/30/02

FTB's Counsel

Domini Pham

Issues: 1. Whether proceeds from the sale, maturity or other disposition of short-term financial instruments were properly excluded from the sales factor.
2. Whether section 24402 Rev. & Tax. Code is constitutional.

Years: 1989 through 1994Amount \$2,694,192.00Status: Trial rescheduled to January 11, 2008.**NEW GAMING SYSTEMS, INC. & AKA INDUSTRIES, INC. v. Franchise Tax Board**

Sacramento Superior Court Docket No. 03AS05705

Taxpayer's Counsel

Robert R. Rubin

McDonough, Holland & Allen, PC

Filed - 10/10/03

FTB's Counsel

Michael Cornez

Issues: 1. Whether New Gaming Systems, Inc., timely filed its suit for refund for the income year ended March 31, 1996.
2. Whether a declaratory relief action can be brought to prevent the collection of tax.
3. Whether a suit for refund can be maintained for a year in which the amount of tax has not been paid in full.
4. Whether Plaintiffs are liable for California taxes on income generated from leases for operating Indian casinos.

Years: 1996 and 1997Amount \$111,587.87Status: Trial set for July 23, 2007 postponed, date unknown.

NISSAN NORTH AMERICA, INC. v. Franchise Tax Board

Los Angeles Superior Court Docket No. BC373781

Taxpayer's Counsel

Richard J. Ayoob

Ajalat, Polley, Ayoob & Matarese

Filed – 07/06/07

FTB's Counsel

Mark P. Richelson

Ronald N. Ito

Donald R. Currier

Issues: 1. Whether claimed EZ credits were erroneously disallowed.
2. Whether Value Added Taxes should be included in the denominator of the sales factor.
3. Whether other errors were made in computing the taxpayer's tax.

Years: 04/01/01 through 03/31/02

Amount \$725.632.00

Status: **Answer to Complaint filed on September 18, 2007.**

NORTHWEST ENERGETIC SERVICES, LLC v. Franchise Tax Board

San Francisco Superior Court Docket No. CGC05-437721

Filed – 01/15/05

Court of Appeal 1st Appellate Court Dist. No. A114805Court of Appeal, 1st Appellate Court Dist. No. A115841 (Attorneys' Fees)Court of Appeal, 1st Appellate Court Dist. No. A115950 (Attorneys' Fees)Taxpayer's Counsel

Amy L. Silverstein, Edwin Antolin

Silverstein & Pomerantz

FTB's Counsel

Marguerite C. Stricklin

Issue: Whether Revenue and Taxation Code section 17942, which imposes a tax upon the "total income from all sources reportable to this state" of LLC registered with the Secretary of State, violates the Due Process Clause and Commerce Clauses.

Years: 12/31/97 through 12/31/01

Amount \$25,067.00 Fees
\$ 3,764.29 Penalty

Status: **Appellant/FTB's Stipulation of Extension of Time to file Reply Brief filed on September 17, 2007.**

PLAYMATES TOYS, INC. v. Franchise Tax Board

Los Angeles Superior Court Docket No. BC344785

Filed – 12/19/05

Taxpayer's Counsel

Edward Gartenberg, Ellis G. Wasson and Kristin L. Sciarra

Gartenberg, Gelfand, Wasson & Selden, LLP

FTB's Counsel

Ronald N. Ito

Issue: Whether Defendant Franchise Tax Board properly computed the numerator of the taxpayer's California sales factor by assigning sales made from Hong Kong to California.

Years: 1988 through 1990

Amount \$1,582,288.00

Status: Notice of Entry of Judgment filed by Defendant on August 17, 2007.

ROHR, INC. v. Franchise Tax Board

San Diego Superior Court Docket No. 37-2007-00070925-CU-CO-CTL

Taxpayer's Counsel

Mark L. Mann

Luce, Forward, Hamilton & Scripps LLP

Filed – 09/07/07

FTB's Counsel

Brian D. Wesley

- Issues:**
1. Whether Rohr, Inc. was engaged in a unitary business with Rohr Credit Corporation, its subsidiary.
 2. Whether losses incurred by Rohr Credit Corporation constituted nonbusiness income.
 3. Whether plaintiff is entitled to attorneys' fees.
 4. Whether a suit for refund can be maintained were not all the interest due has been paid.

Years: 07/31/85 through 07/31/87**Amount** \$5,155,415.00

Status: Plaintiff's Summons and Complaint filed on July 11, 2007, and served personally on the Franchise Tax Board on September 7, 2007.

SCHENCK, WILLIAM E & KARREN v. Franchise Tax Board

Sacramento Superior Court Docket No. 07AS04188

Taxpayer's Counsel

Alvin R. Wohl

Palmer, Kazanjian, Wohl, Perkins, LLP

Filed – 09/14/07

FTB's Counsel

Michael J. Cornez

- Issues:**
1. Whether Defendant correctly calculated the gain realized on the sale of property.
 2. Whether Defendant correctly asserted a penalty for failure to provide information.
 3. Whether Defendant properly assessed a penalty pursuant to Section 19777.5.
 4. Whether the taxpayers effectively elected installment sale treatment.

Year: 1999**Amount** \$

Status: Plaintiff Summons and Complaint served personally on the Franchise Tax Board on September 14, 2007.

SHIMMON, EDWARD & ANNELIESE v. Franchise Tax Board

Los Angeles Superior Court Docket No. BC363822

Taxpayer's Counsel

Charles P. Rettig, Sharyn M. Fisk

Hochman, Salkin, Rettig, Toscher & Perez, P.C.

Filed – 12/22/06

FTB's Counsel

Lisa W. Chao

Donald Currier

Issue: Whether a taxpayer filing under the first option of VCI was eligible for the interest suspension provided by section 19116.

Year: 1999**Amount** \$515,422.00 Interest

Status: Discovery proceeding. Final Status Conference scheduled for January 11, 2008, Trial scheduled for January 22, 2008.

TOUSSAINT, ALEXANDER v. Franchise Tax Board

Los Angeles Superior Court Docket No. BS106772

Taxpayer's Counsel

Alexander Toussaint, Pro Per

Filed – 01/04/07

FTB's Counsel

Lisa W. Chao

Issues: 1. Whether Petitioner has exhausted their administrative remedies.
2. Whether Petitioner has demonstrated entitlement to a dependent and child care credit.

Years: 2003 through 2005 Amount \$1,221.97

Status: **Demurrer Sustained Without Leave to Amend, and Nunc Pro Tunc Order filed on September 6, 2007.**

TOY'S "R" US, INC. & AFFILIATES v. Franchise Tax Board

Sacramento Superior Court Docket No. 01AS04316

Court of Appeal, 4th Appellate Court No. C045386

California Supreme Court No. S143422

Taxpayer's Counsel

Eric J. Coffill

Carley A. Roberts

Morrison & Foerster, LLP

Filed - 07/17/01

FTB's Counsel

Michael J. Cornez

Issue: Whether gross receipts from the sale of short-term financial investment were properly excluded from the documentation of the sales factor.

Years: 1991 through 1994 Amount \$5,342,117.00

Status: Case is transferred to the Court of Appeal on November 15, 2006, with directions to vacate its decision and to reconsider the cause of action in light of Microsoft v. Franchise Tax Board (2006) 39 Cal.4th 750 and General Motors v. Franchise Tax Board (2006) 39 Cal.4th 773. (Cal. Rules of Court, rule 29.3(d).)

VENTAS FINANCE I, LLC v. Franchise Tax Board

San Francisco Superior Court Docket No. 05-440001

Court of Appeal, 1st Appellate Court No. A116277 & A117751Taxpayer's Counsel

Amy L. Silverstein, Edwin Antolin

Silverstein & Pomerantz, LLP

Filed – 04/01/05

FTB's Counsel

Marguerite Stricklin

Issue: Whether Revenue and Taxation Code section 17942, which imposes a tax based upon the "total income from all sources reportable to this state" of LLC registered with the Secretary of State, violates the Due Process Clause and Commerce Clause.

Years: 2001 through 2003 Amount \$29,580.00

Status: **Defendant/Appellant's Stipulation of Extension of Time to file Reply Brief filed on September 20, 2007.**